

CONGRESSMAN PETE STARK

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FACT SHEET: The Small Business Tax Equity Act

The Small Business Tax Equity Act, H.R. 1985, was introduced by Rep. Pete Stark (D-CA) and Rep. Dana Rohrabacher (R-CA) on May 25, 2011. The legislation would create an exception to Tax Code section 280E to allow businesses operating in accordance with state law to take tax deductions associated with the sale of marijuana intended for patients for medical purposes.

Background:

Medical marijuana dispensaries are not permitted to take federal tax deductions associated with the sale of medical marijuana even though the businesses are operating legally under state law.

- **Internal Revenue Code Section 280E**
 - Section 280E of the Internal Revenue Code prohibits businesses from taking deductions and credits on their tax return that are attributed to the sale of a drug listed in Schedule I or II of the Controlled Substances Act.
 - Section 280E was added to the tax code through the Tax Equity and Fiscal Responsibility Act in 1982. The legislative intent was to deny the benefit of tax deductions and credits to those who traffic in illegal drugs.
 - Marijuana is a Schedule I drug under the Controlled Substances Act so all sales fall under Section 280E.
- **Fairness to Legal Businesses**
 - Colorado and California represent 92 percent of the national wholesale and retail sales of medical marijuana and each are home to over 1,000 dispensaries.
 - These small businesses operate legally and pay federal and state taxes.
 - California collected over \$100 million in state sales taxes on the \$700 million to \$1.3 billion in annual retail sales of medical marijuana.
 - In San Jose, medical marijuana dispensaries paid \$290,000 to the city in just one month after the city created a 7-percent tax on dispensaries.

- The Harborside Health Center in Oakland, CA handles \$22 million in annual medical marijuana sales and serves 70,000 patients. The business pays more than \$3.2 million in state and local taxes on marijuana transactions.
- **Legalization of Medical Marijuana**
 - California was the first state to legalize medical marijuana in 1996.
 - Sixteen states plus the District of Columbia have legalized medical marijuana.
 - In states like California and Colorado, medical marijuana is sold through dispensaries.
 - The dispensaries provide safe, legal facilities for patients who hold a recommendation from a physician.